IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1599 OF 2005

Shri Santosh Prabhakar Zunjarrao,
deceased through his legal heirs,
Smt Samidha Santosh Zunjarrao
and ors. .. Appellants

Vs

Sau.Suman Vishnu Deshmukh and ors Respondents.

Mr R.A.Apte a/w Mr A.A.Garge,for the appellants.
Ms Gauri Godse,for respondent no.3.

CORAM : D.B.BHOSALE,J.
DATED : 04th JULY, 2007

P.C.:

1. Heard the learned counsel for the parties.

2. This appeal is directed against concurrent findings recorded by the courts below decreeing a suit filed by the respondents-plaintiffs. The suit was filed for declaration that plaintiff nos 1 and 2 and defendant nos 3 to 8 are legal owners of the suit houses and are entitled to take possession thereof. Appellant-defendant nos 1 and 2 are directed to hand over the possession of the suit houses to the plaintiffs and defendant nos 3 to 8 by the said order. The appellants-defendants claim right over the suit properties on the basis of a Will dated 19.5.1983 executed by one Yeshwant. Yeshwant was the son of Sakharam. Nirmala was his wife. Yeshwant and Nirmla died issueless. The plaintiffs and defendant nos 3 to

8 are also sons and daughters of Sakharam. The defendants-appellants are father and daughter. Defendant no.1 is the brother of Nirmala. Since Yeshwant and Nirmala had no issue they allegedly executed the Will in favour of the appellants-defendants on 19.5.1983. It is against this backdrop both the courts below have concurrently held that the suit properties are ancestral properties of the plaintiffs and defendant nos 3 to 8 and that the Will dated 19.5.1983 made by Yeshwant is not binding upon them. It has also been held that there was no partition between Yeshwant and Nirmala on one hand and rest of the parties to the suit on the other hand. I find absolutely no error committed by the courts below. No substantial question of law is either raised or involved in this appeal. In the circumstances, the second appeal is dismissed.

(D.B.BHOSALE,J.)